



## Legal Protections for Physicians



By signing the certification, the physician is providing an opinion that the patient will receive therapeutic or palliative benefit from medical marijuana and that its potential benefit would likely outweigh any health risks.

If the physician notifies the MMP in writing either that the patient has ceased to suffer from a qualifying condition or that the physician no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana, the MMP will nullify the patient's registration card and the patient has 15 days to dispose of the marijuana.

The MMP will not maintain a list of "marijuana- friendly" physicians nor will the MMP refer patients to a physician.

Finally, the law provides liability protection for the physician: [16 Del. C. § 4903A(g)]

*"A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Delaware Medical Board or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition or for refusing to provide such written certifications or statements, provided that nothing in this chapter shall be deemed to release a physician from the duty to exercise a professional standard of care for evaluating or treating a patient's medical condition."*



**Delaware Office of Medical Marijuana**  
[www.dhss.delaware.gov/dhss/dph/hsp/medmarhome.html](http://www.dhss.delaware.gov/dhss/dph/hsp/medmarhome.html)



## History of the Delaware Medical Marijuana Program

*The Division of Public Health (DPH), authorized by 16 Del.C.Ch.49A - Delaware's Medical Marijuana Act, regulates the state's Medical Marijuana Program (MMP). The Office of Medical Marijuana (OMM), established by DPH's Health Systems Protection Section (HSP), began accepting patient applications for registration in the program in July 2012.*

*In August 2013, DPH was authorized to implement a pilot compassion center. Delaware's procurement process yielded a contract awarded to First State Compassion Center (FSCC) in August 2014. A license to begin growing the medical marijuana was issued to FSCC in December 2014. The center is expected to open for patient sales in April 2015.*

*The OMM has authority to inspect compassion center operations, including the facility itself, to ensure conformity to the requirements established by the law, regulations, and other documents associated with the contract.*

*These include a not-for-profit operation and tightly regulated governance, personnel, security, documentation, inventory, training, and quality of marijuana grown, packaged and distributed by the centers.*



DELAWARE HEALTH AND SOCIAL SERVICES  
 Division of Public Health  
 Health Systems Protection Section

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**Prevent Diversion  
For Medical Use Only**



Delaware Health and Social Services  
 Division of Public Health  
 Health Systems Protection Section



# Delaware Office of Medical Marijuana

**MEDICAL PROFESSIONALS  
INFORMATION**

## QUALIFICATIONS FOR THE PROGRAM

To qualify for medical marijuana, a patient must:

- Possess a current State of Delaware driver's license or identification card
- Be 18 years of age or older;
- Be under the care of a physician currently licensed to practice in Delaware; and
- Possess a physician's certification indicating a qualifying debilitating medical condition.

## QUALIFYING MEDICAL CONDITIONS

A "debilitating medical condition" means one or more of the following:

- Cancer, HIV or AIDS, decompensated cirrhosis, amyotrophic lateral sclerosis, and agitation of Alzheimer's disease;
- Post-traumatic stress disorder qualifies when it manifests itself in severe physical suffering, such as severe or chronic pain or severe nausea and vomiting, or otherwise severely impairs the patient's physical ability to carry on the activities of daily living; or
- A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain that has not responded to previously prescribed medication or surgical measures for more than three months or for which other treatment options produced serious side effects; intractable nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis

## CARD APPROVAL PROCESS

The patient will be issued a registry card by the Medical Marijuana Program (MMP). The application for a card can be downloaded from the Division of Public Health (DPH) website. It is the patient's responsibility, not the physician's, to submit a fully completed application. It is also the patient's responsibility to inform the MMP of any changes to the application.

The patient, by signature, must give permission for the MMP to contact the physician to verify the physician's credentials and the doctor-patient relationship.

The card must be renewed annually. The law provides for revocation of the card and penalties when a patient fails to comply with the requirements of the program, re-distributes the marijuana, or makes false statements.

## PHYSICIAN'S ROLE IN THE MEDICAL MARIJUANA PROGRAM

To obtain medical marijuana for a patient, the physician will not write a prescription and need not sign-up to be part of this program. Instead, the patient will identify the physician on his or her application and include a certification, which is completed and signed by the physician. The physician only completes the certification and no other part of the application. Nothing in the law compels a physician to sign the certification.

- Only physicians licensed in Delaware can submit a physician certification.
- The physician must have a bona fide relationship with the patient and care for the patient's qualifying condition.

This means:

- The relationship between the physician and patient cannot not be limited to just the authorization for the use of medical marijuana or consultation for that purpose.
- The patient must be under the physician's continued care for primary medical care or the condition that qualifies him or her for medical marijuana.
- The physician must have a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marijuana as a treatment of his or her qualifying condition.
- The physician must, in the 90 days preceding the completion of the certification, complete an in-person assessment of the patient's medical history, including a review of the medical records of other treating physicians within the past 12 months;
- The physician must, in the 90 days preceding the completion of the certification, complete an in-person assessment of the patient's current medical condition; and
- The physician must create and maintain current records of the patient's condition in accord with the medically accepted standards.
- If the patient's debilitating medical condition is post-traumatic stress disorder, the physician certifying must be a licensed psychiatrist.